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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/515,310	02/29/2000	John M. Quernemoen	RA-5244	2025

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EXAMINER

DODDS, HAROLD E

ART UNIT	PAPER NUMBER
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2177

DATE MAILED: 05/06/2004

19

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/515,310

Applicant(s)

QUERNEMOEN, JOHN M.

Examiner

Harold E. Dodds, Jr.

Art Unit

2177

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 April 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1 and 3-21.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

John E. Breene
JOHN E. BREENE
PRIMARY EXAMINER

Harold E. Dodds, Jr.
Harold E. Dodds, Jr.
Patent Examiner
5/3/04

Continuation of 5. does NOT place the application in condition for allowance because: The combination of Stellwagen, Jr. (U.S. Patent No. 5,835,755) and Yang et al. (U.S. Patent No. 6,542,854) render obvious independent claim 1. Stellwagen teaches "obtaining at least one user defined workload requirement" at col. 9, lines 21-23, col. 7, lines 48-51, and col. 8, 39-43, "the user defined workload requirement" at col. 7, lines 48-51 and col. 8, 39-43, "Includes a plurality of inputs from a user" at col. 7, lines 48-51 and col. 8, lines 39-43, "determining the database management system server hardware requirements" at col. 9, lines 8-10, col. 1, lines 32-35, col. 4, lines 8-14, and col. 8, 39-43, "for the yet-to-be built database management system server" at col. 8, lines 27-30, col. 1, lines 32-35, and col. 4 lines 8-14, "as a function of said user defined workload requirement" at col. 4, lines 33-36, col. 7, lines 48-51, and col. 8, 39-43, and "an outputting said yet-to-be built database management system server requirements" at col. 8, lines 63-65, col. 8, lines 27-30, col. 1, lines 32-35, col. 4, lines 8-14, and col. 8, 39-43 and Yang teaches "a maximum desired processor utilization" at col. 15, lines 45-54 and "and transactions per second requirement" at col. 29, lines 59-60. The combination of Stellwagen and Yang render obvious independent claim 8. Stellwagen teaches the "obtaining from said a user" at col. 7, lines 48-51 and "and outputting said total workload to said human user" at col. 8, lines 63-65, col. 7, lines 64-67, col. 8, lines 39-43, and col. 1, lines 44-49 and Yang teaches "a plurality of transactions definitions" at col. 12, lines 41-43, "wherein each of said transactions definitions" at col. 12, lines 41-43, "have a transaction workload contribution" at col. 12, lines 41-43 and col. 7, lines 34-35, "and an expected execution rate per second" at col. 33, lines 10-13 and col. 10, lines 48-50, "calculating a total expected workload" at col. 16, lines 21-24, col. 14, lines 7-9, col. 33, lines 10-12, and col. 7, lines 34-35, and "as a function of said transactions definitions" at col. 4, lines 33-36 and col. 12, lines 41-43. The combination of Stellwagen and Yang render obvious independent claims 16 and 21. Stellwagen teaches "obtaining from a user" at col. 9, lines 21-23 and col. 7, lines 48-51, "and determining the database management system server hardware requirements" at col. 9, lines 8-10, col. 1, lines 32-35, col. 4, lines 8-14, and col. 8, 39-43, and "for the yet-to-be built database management system server" at col. 8, lines 27-30, col. 1, lines 32-35, and col. 4, lines 8-14 and Yang teaches "a plurality of transactions definitions" at col. 12, lines 41-43, "wherein each of said transactions definitions" at col. 12, lines 41-43, "have a transaction workload contribution" at col. 12, lines 41-43 and col. 7, lines 34-35, "and an expected execution rate per second" at col. 33, lines 10-13 and col. 10, lines 48-50, "determining a total expected workload" at col. 16, lines 21-24, col. 14, lines 7-9, col. 33, lines 10-12, and col. 7, lines 34-35, "as a function of said transactions definitions" at col. 4, lines 33-36, and col. 12, lines 41-43, and "as a function of said total expected workload" at col. 4, lines 33-36, col. 14, lines 7-9, col. 33, lines 10-12, and col. 7, lines 34-35. The "Declaration" filed on 30 October 2003 under 37 CFR 1.131 has been considered but is ineffective to overcome the Yang reference. The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Yang reference, is insufficient to establish diligence from a date prior to the date of reduction to practice of the Yang reference to either a constructive reduction to practice or an actual reduction to practice, and does provide a correlation of the elements of the "Invention Disclosure" to the critical elements of the proposed independent claims.

Continuation of 10. Other: The "Supplemental Declaration" filed on 23 April 2003 under 37 CFR 1.131 has not been considered since it raises new issues, which would require further consideration and/or search.